

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **Pamela Ann Ponte v Robert Francis Ponte**

Docket No. **279758**

L.C. No. **04-002966-DM**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The claim of appeal as to the order regarding attorney fees for postjudgment litigation involving the QDRO is DISMISSED by for lack of jurisdiction because it does not fall within MCR 7.202(6)(a)(iv). If it was the intent of the Supreme Court to make every postjudgment order that assessed attorney fees a final order under MCR 7.202(6)(a)(iv), the court rule would simply read, "a postjudgment order awarding or denying attorney fees and costs." However, by adding the language "under MCR 2.403, MCR 2.405, MCR 2.625 or other law or court rule" ... the Supreme Court was clearly limiting the type of postjudgment order regarding attorney fees and costs. MCR 2.403, MCR 2.405, and MCR 2.625 all involve attorney fees and costs incurred prior to entry of the MCR 7.202(6)(a)(i) final order. Pursuant to the principle of *ejus generis* when a nonspecific phrase follows specific examples, the unnamed must be of the same nature as the specifically named items. That means the "other law or court rule" must involve attorney fees and costs incurred prior to entry of the MCR 7.202(6)(a)(i) final order. Examples would include attorney fees and costs under the Elliott-Larson Act, Open Meeting Act, Freedom of Information Act, and MCR 2.114(F). In this case the postjudgment attorney fees were for postjudgment behavior that this Court could not review as a matter of right. See docket number 279759. Therefore, any appeal must be by application for leave to appeal under MCR 7.205.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

AUG 30 2007

Date

Sandra Schultz Mengel
Chief Clerk